

GIBSON DUNN

The motion to seal is GRANTED temporarily. The Court will assess whether to keep the materials at issue sealed or redacted when deciding the underlying motion. The Clerk of Court is directed to terminate ECF No. 718.

SO ORDERED.

September 17, 2021



September 20, 2021

**VIA ECF**

The Honorable Jesse M. Furman  
United States District Court for the Southern District of New York  
Thurgood Marshall United States Courthouse  
40 Foley Square  
New York, NY 10007

Re: *City of Providence, Rhode Island v. BATS Global Markets, Inc.*,  
No. 14-cv-2811-JMF (S.D.N.Y.)

Dear Judge Furman:

On behalf of Defendants The Nasdaq Stock Market LLC and Nasdaq BX, Inc. (collectively, "Nasdaq"), we write pursuant to Section 6 of the Court's Electronic Case Filing Rules & Instructions and your Honor's Individual Rules and Practices in Civil Cases to respectfully seek leave to file two documents under seal this evening, in opposition to documents Plaintiffs previously filed under seal.

*First*, Nasdaq seeks permission to file under seal its memorandum of law in opposition to Plaintiffs' motion to exclude the report of Nasdaq's expert James R. Burns (ECF No. 641). Plaintiffs' July 26, 2021 memorandum of law was filed in public redacted and sealed unredacted forms (ECF Nos. 642, 647), which sealing the court temporarily approved in its order of July 27, 2021 (ECF No. 666). Nasdaq would similarly file its opposition memorandum in public redacted and sealed unredacted forms, in order to protect references to documents that were (i) designated as "Confidential" or "Highly Confidential" in discovery, or (ii) contain Defendants' proprietary business information.

*Second*, Nasdaq seeks permission to file under seal its response to Plaintiffs' statement of additional material facts pursuant to local rule 56.1 in opposition to Nasdaq's motion for summary judgment on the grounds of preclusion (ECF Nos. 655, 670). Plaintiffs' July 26, 2021 56.1 statement (ECF No. 655), and their later corrected version (ECF No. 670) were both filed under seal, which sealing the court temporarily approved in its order of July 26, 2021 (ECF No. 636). Given that Nasdaq's counter-56.1 statement reproduces large portions of Plaintiffs' sealed submission, Nasdaq would similarly file its counter-56.1 statement under seal. After Plaintiffs file a redacted version of their 56.1 statement, Nasdaq would file a redacted version of its counter-56.1 statement.

We thank the Court for its consideration.

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Respectfully submitted,

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cc: All Counsel of Record via ECF